

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the
Commission's Future Energy Efficiency Policies,
Administration and Programs.

Rulemaking 01-08-028
(Filed August 23, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING
GRANTING IN PART AND DENYING IN PART MOTIONS OF
PACIFIC GAS AND ELECTRIC COMPANY (PG&E)
AND SOUTHERN CALIFORNIA GAS COMPANY TO SHIFT 2002
ENERGY EFFICIENCY FUNDS, AND GRANTING PG&E'S
MOTION TO ADD PROGRAM TO ITS 2003 APPLICATION**

1. Summary

This ruling responds to motions by Investor Owned Utilities (IOUs) Southern California Gas Company (SoCalGas) and Pacific Gas and Electric Company (PG&E) to shift 2002 energy efficiency funding among programs the Commission approved in Decision (D.) 02-03-056. In that decision, the Commission stated that the IOUs could not shift funds amounting to more than 10% of a program's budget without Commission approval, and delegated to me the authority to rule on such requests.

SoCalGas filed its motion to shift funds on October 30, 2002, and PG&E filed its motion on November 14, 2002. In D.02-03-056, the Commission required the IOUs to show that an exception to the 10% fund shifting allowance is "necessary for program success or to avoid program failure,"¹ and that

¹ D.02-03-056, *mimeo.* at 51 and ordering paragraph 23.

substantial efforts have failed to utilize the funds for the intended program.² In this ruling, I approve SoCalGas' fund shifting request. I approve in part and deny in part PG&E's request. My denial is without prejudice to PG&E's right to better substantiate its motion.

This ruling also grants PG&E's motion for leave to file belatedly an application for one proposed 2003 energy efficiency program.

2. SoCalGas' Motion to Shift Funds

SoCalGas seeks authorization to make the following budget transfers totaling \$1,200,000, both of which I approve:

1. To transfer up to \$700,000 from its Savings by Design (SBD) Program to its Express Efficiency Program, and
2. To transfer up to \$500,000 from its Multi-Family Rebate Program to its Single-Family Rebate Program.

A. SBD to Express Efficiency

SoCalGas claims its Express Efficiency rebate program budget is exhausted, and that it is only able to accept reservations from customers. By contrast, SoCalGas projects that the SBD program will be under-spent by \$700,000. SoCalGas explains that SBD has a somewhat limited market, because it is available only to core gas customers who receive municipal electric power. The program's customers – often schools and universities – are also suffering from budget limitations, SoCalGas explains.

Nonetheless, on November 22, 2002, the Commission's Energy Division informed SoCalGas and its parent entity, Sempra Energy (Sempra) by letter

² *Id.*

(Appendix A hereto) that staff was prepared to recommend that I deny the request to shift funds from the SBD Program to the Express Efficiency Program. The thrust of the Energy Division's concerns was that SoCalGas was neglecting one program in favor of another and allowing both programs to fall far short of the goals SoCalGas had proposed and the Commission had approved. Staff pointed out that "[a]lthough the Express Efficiency program has been subscribed beyond the mutually approved budget, the energy savings that have been secured are only 15% of projected electricity savings and 75% of projected gas savings." Staff offered SoCalGas the opportunity to respond with further support for its fund shift request.

On November 27, 2002, SoCalGas submitted a letter providing additional support for the request (Appendix B hereto). SoCalGas gave several reasons for the unexpected demand for Express Efficiency, including a new air quality regulation (South Coast Air Quality Management Rule 1146.2) that caused a "run" on space heating boilers. These boilers produce less gas savings than the other boilers SoCalGas predicted its program would incent customers to replace, even though they are still "cost effective" measures.³ The depressed economy also reduced demand for other boiler replacements, depressing energy savings. SoCalGas also marketed Express Efficiency to many small nonresidential customers, whose appliance replacements do not cause energy savings as high as would the large boilers.

SoCalGas also explained that it had improved the infrastructure of its Savings by Design Program over the past year, and the utility expects the

³ That is, the boilers produce enough energy savings to make them worth the investment.

program to be meeting its goals in 2003. I note that the Commission augmented the SBD program budget significantly in 2002.

Given all of the foregoing explanation, I find SoCalGas' request to shift \$700,000 from SBD to Express Efficiency reasonable.

B. Single-Family Rebate Program to Multi-Family Rebate Program

SoCalGas asks to shift \$500,000 from the Multi-Family to the Single-Family Rebate Program.

The programs cover virtually the same measures, although the Multi-Family Program provides slightly higher rebates to counteract market barriers for multi-family residential units that do not exist for single-family homes (*i.e.*, split incentives between property owners/managers, builders, and tenants). The direct recipients of the energy savings benefits are typically from the same rate-class in either program. Moreover, SoCalGas had already exceeded the hard-to-reach goal set out for SoCalGas' Single-Family Program as of their third quarter 2002 report. Further, it appears that the Single-Family Program is this year reaching more hard-to-reach customers than is the Multi-Family Program.

I, therefore, find reasonable SoCalGas' request to shift \$500,000 from its Multi-Family to its Single-Family Program.

3. PG&E's Motion to Shift Funds

On November 14, 2002, PG&E filed a motion seeking authorization to make the following budget transfers, totaling \$2,820,000:

1. To transfer to its Appliance Recycling Program up to \$300,000 from its Multi-Family-Residential Energy Efficiency Program, \$200,000 from its Home Energy Survey Program, \$70,000 from its Residential Lighting Program, \$50,000 from its Education and Training Program, and \$200,000 from its Multi-Family-Residential New Construction Program, for a combined total of \$820,000,

2. To transfer up to \$800,000 from its Multi-Family-Residential Energy Efficiency Program and \$700,000 from its Multi-Family-Residential New Construction Program, for a total of \$1,500,000, to its Single Family-Residential Energy Efficiency Program, and
3. To transfer up to \$500,000 from its Multi-Family-Residential New Construction Program to its Single-Family-Residential New Construction Program.

With regard to appliance recycling, PG&E seeks to transfer \$820,000 from several under-subscribed energy efficiency programs to its appliance recycling program, on the ground that demand for such programs, as projected, will exceed the budget by that amount. On November 29, 2002, ARCA, Inc. (the prime contractor engaged by Southern California Edison Company to run the Statewide Appliance Recycling Program) filed comments in support of the appliance recycling component of PG&E's motion. On December 5, 2002, PG&E filed a reply in support of ARCA's comments.

The amounts of funding to be transferred to the appliance recycling program represent small percentages of the approved budgets. PG&E contends that those programs will not be harmed as a result of this transfer, and will hold PG&E to that representation. I grant PG&E authority to shift funds in the amount of \$820,000, from the programs and in the amounts identified above, to PG&E's Appliance Recycling Program.

However, I am concerned about the process PG&E employed to inform the Commission of its problem. As of September 2002, PG&E appeared to be aware that the appliance recycling programs were nearing full subscription. (See Appendix C hereto, PG&E's 9/30/02 Quarterly report re appliance recycling program.) However, the Commission received no notice that program success

was jeopardized or that failure was imminent for any of PG&E's 2002 programs until PG&E filed its motion in mid-November.

Indeed, it appears that PG&E has been aware for some months of the facts underlying its contention that the budgets for several of its programs required adjustment. For instance, PG&E states the following in its motion: the Single-Family-Residential New Construction Program "was fully subscribed as of August 16," whereas the Multi-Family-Residential New Construction Program had received requests to fund only 500 units as of September, compared to a goal of 9,000 units.⁴ Only after PG&E had submitted its plans for 2003 and very near to the end of 2002 did the utility come forward with its motion for authority to shift funds.

PG&E contends that its requested funding shifts are necessary "to avoid consumer disappointment at this time."⁵ While program continuity is important, it is also important for the IOUs to adhere to their program commitments, including commitments to serve hard-to-reach customers, and to provide a balanced portfolio of energy efficiency programs. PG&E nowhere explains why it did not alert the Commission sooner of problems with its programs. Nor does it demonstrate that it has expended adequate effort to market the programs that are under-subscribed.

⁴ *Motion of Pacific Gas and Electric Company (U 39 E) for Authorization to Shift PY 2002 Energy Efficiency Program Funds*, November 14, 2002, at p. 2.

⁵ *Reply of Pacific Gas and Electric Company (PG&E) (U 39 E) to Response of Appliance Recycling Centers of America, Inc. to Motion of PG&E for Authorization to Shift PY 2002 Energy Efficiency Program Funds*, December 5, 2002, at p. 1.

PG&E appears to be using the fund shifting process as a means of belatedly making up for its own program failures during the year. Its failure to raise the problems of under- and over-subscription of its programs in a timely way also is of grave concern. At bottom, PG&E has failed to substantiate most of its request, and I hereby deny it without prejudice. If it refiles its motion, PG&E should show that it engaged in reasonable efforts to make the programs from which it proposes to transfer funds succeed, explain its delay in notifying the Commission of the problems, and show that such delay will not recur, and explain why it did not budget adequately for the programs to which it proposes to transfer funds.

4. PG&E's Motion to Amend 2003 Funding Application

On December 9, 2002, PG&E filed a motion seeking leave to amend its 2003 energy efficiency funding application to include a new energy efficiency program purporting to meet the needs of the City of San Francisco. According to PG&E, it developed the proposal in response to comments by San Francisco on PG&E's original 2003 proposals. On December 11, 2002, I granted PG&E's request for additional time to include the San Francisco program on the 2003 application by e-mail. Comments on the new program were due on December 23, 2002 and reply comments were due on December 30, 2002.

IT IS RULED that:

1. Southern California Gas Company (SoCalGas) is authorized to shift up to \$500,000 of its 2002 program funds from its Multi-Family Rebate Program to its Single-Family Rebate Program.
2. SoCalGas is authorized to shift up to \$700,000 of its 2002 program funds from its Savings by Design Program to its Express Efficiency Program.

3. Pacific Gas and Electric Company's (PG&E) request to shift funds into either its Single-Family-Residential New Construction Program or its Single-Family-Residential Energy Efficiency Program is denied without prejudice.

4. PG&E is authorized to shift up to \$820,000 of its 2002 program funds to its Appliance Recycling Program from the following programs in the following amounts: up to \$300,000 from its Multi-Family-Residential Energy Efficiency Program, \$200,000 from its Home Energy Survey Program, \$70,000 from its Residential Lighting Program, \$50,000 from its Education and Training Program, and \$200,000 from its Multi-Family-Residential New Construction Program.

5. PG&E's motion seeking authorization to file a proposed 2003 energy efficiency plan related to the needs of the City of San Francisco is granted.

Dated January 10, 2003, at San Francisco, California.

/s/ Sarah R. Thomas
Sarah R. Thomas
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Granting in Part and Denying in Part Motions of Pacific Gas and Electric Company (PG&E) and Southern California Gas Company to Shift 2002 Energy Efficiency Funds, and Granting PG&E's Motion to Add Program to Its 2003 Application on all parties of record in this proceeding or their attorneys of record.

Dated January 10, 2003, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

R.01-08-028 SRT/sid

APPENDIX A, B, and C
(Pls. refer to Doc. ID # 139099)